

**SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE  
CHILD WELFARE SOCIAL WORKER AND FAMILY ADVOCATE POLICY**  
(Adopted by Commission on November 20, 2020)

## **I. INTRODUCTION**

The South Carolina Commission on Indigent Defense (SCCID), working in conjunction with the South Carolina Bar, established the Indigent Defense Contract Attorney Program to provide appointed legal counsel for indigent parents in child welfare (abuse/neglect and termination of parental rights) cases brought by the Department of Social Services (DSS). SCCID oversees the payment of the parents' attorneys' fees and the reimbursement of the expenses for other service providers engaged by the appointed contract attorneys.

SCCID strives to ensure the provision and availability of high-quality legal representation for parents in child welfare proceedings who lack the financial means to afford legal representation. The use of social workers or family advocates may be essential in some cases in the quest to provide high-quality representation. SCCID adopted this policy to ensure that approved social workers and family advocates meet a necessary standard that supports high-quality representation while maximizing the limited funding resources.

Appointed attorneys, social workers and family advocates must acknowledge that they have read and understood this policy and that they will comply with it in order to be on the approved list of social workers and family advocates entitled to reimbursement of the expenses for social-work support services. SCCID will routinely audit and review billing for compliance with these policies. Noncompliance could result in invoices being returned for corrections and/or could potentially result in removal from the list and reimbursement entitlement.

For the purpose of this policy, terms are used as follows:

- "IDCA" refers to the Indigent Defense Contract Attorney.
- "SW/FA" refers to a social worker or family advocate who is on the approved SCCID list and has been engaged to provide social work services on the legal defense team in a child welfare case.
- "Child Welfare Case" refers to cases filed by DSS that involve allegations of abuse & neglect and/or the termination of parent rights of an indigent defendant.

## **II. APPROVED LIST / QUALIFICATION REQUIREMENTS**

- A. SCCID will maintain a list of approved social workers and family advocates who agree to adhere to this policy. In order to receive payment, a social worker or family advocate must be on the list of approved social workers and family advocates.
- B. To be included on the list of approved social workers and family advocates, the social worker or family advocate must meet the minimum qualifications:
  1. Social Workers: Bachelor's level degree or higher in social work from a program accredited by a nationally recognized accrediting body for social work programs, or

from a social work program whose standards are at least equivalent to the minimum standards required by the nationally-recognized accrediting body approved by the board AND licensure as a social worker in South Carolina (LBSW, LMSW, LISW or LISW- Supervisor).

OR

2. Family Advocate: Bachelor's level degree in social work from a program accredited by a nationally-recognized accrediting body for social work programs, or from a social work program whose standards are at least equivalent to the minimum standards required by the nationally recognized accrediting body approved by the board AND a minimum of two (2) years of direct child welfare experience.
- C. To remain on the approved list of social workers and family advocates, the SW/FA must provide proof no later than July 1 of each year, commencing with their second year on the list, that they have completed at least six (6) hours of child-welfare-law-related training. This training can be as part of or in addition to the continuing education required for maintaining any professional license.
  - D. SCCID may in its sole and absolute discretion remove from the list of approved social workers/family advocates any person for failing to adhere to these guidelines, or for any conduct which the Commission finds inappropriate for social work support services performed on behalf of indigent clients in this State.

### **III. APPLICATION**

- A. All persons meeting the minimum qualifications who wish to provide social work support services to contract attorneys handling indigent child welfare cases must submit a written application, supporting documentation that they meet the minimum qualifications, and proof of professional liability insurance. Supporting documentation must include a copy of college degree, social work license as issued by the SC Department of Labor, Licensing and Regulation (LLR), and information to verify experience working on child welfare cases.
- B. Social workers must provide SCCID a copy of their social work license each year upon renewal by LLR. SCCID must be notified immediately of any change in status concerning LLR licensing or of any criminal, civil, or disciplinary action brought against the social worker or family advocate. Immediately means within 24 hours of SW/FA becoming aware of the change or of the pending action.

#### IV. COMPENSATION

- A. The following maximum hourly rates are established for any in-court or out-of-court hourly invoicing. SW/FA shall not seek compensation at a higher hourly rate nor shall a higher hourly rate be authorized to exceed the below maximum hourly rates.

|                                 |               |
|---------------------------------|---------------|
| Licensed Clinical Social Worker | \$40 per hour |
|---------------------------------|---------------|

|                        |               |
|------------------------|---------------|
| Licensed Social Worker | \$30 per hour |
|------------------------|---------------|

|                 |               |
|-----------------|---------------|
| Family Advocate | \$20 per hour |
|-----------------|---------------|

- B. SW/FA may bill up to 40 hours in each case. When 32 hours have been exhausted, SW/FA and the contract attorney must meet to discuss the status of the case and the need for additional social work support. For unique and extraordinary cases and circumstances, additional hours may be needed. In such cases, the contract attorney shall enumerate, by ex-parte motion to the Court, the extraordinary circumstances that make additional hours necessary, the number of hours reasonably needed to complete the work, and the reasons why the work could not be completed within the allotted time already approved. Authorization for services in excess of the 40 hours must be made prior to the expense being incurred, by written order of the court setting forth specific findings of fact and finding that additional hours are appropriate, reasonable and necessary to provide an adequate defense.
- C. All invoices must be submitted to the contract attorney at least monthly. The monthly invoice should reflect all services performed and expenses incurred within the 30 days prior to the date of the invoice. Invoices must include: Name, Address, Tax ID Number, Client Name, Case Number, and a detailed accounting of the work performed. The accounting of the work performed need not divulge case or defense-sensitive information but must account for the SW/FA's time, rates and expenses, and brief descriptions of the tasks completed.
- D. Contract attorney must timely submit the invoice through the SCCID Voucher Payment System for payment. SCCID will process vouchers within 30 days of receipt and the State Treasurer's office will issue payment to the contract attorney within 30 days thereafter by direct deposit. If SCCID has questions concerning the invoice, it will be returned to the contract attorney for the SW/FA to respond to those questions and make any adjustments prior to re-submission. Failure to follow these procedures will result in a delay in processing for payment. The contract attorney is responsible for the payment of the SW/FA invoice. Contract attorney may pay the invoice upon receipt or arrange with the SW/FA to pay the invoice upon receipt of the reimbursement payment from SCCID. As supervisor of the SW/FA, the attorney shall ensure that the billing, invoices and expenses are proper and that SCCID is only being billed for necessary services authorized by the attorney.

- E. SCCID will not compensate any social worker whose license is not valid or current throughout the term of employment in the case, or who is unlicensed.

## **V. SOCIAL WORK SUPPORT SERVICES**

- A. The SW/FA will provide social work support services which may include, but are not limited to:
  - 1. Completing an initial assessment to determine the strengths and needs of the parent/client.
  - 2. Communicating with, engaging, and motivating parents to participate in the court process and proceedings.
  - 3. Assisting in developing alternative treatment plans that will facilitate reunification.
  - 4. Observing visits between the parent and child(ren).
  - 5. Attending scheduled meetings with the parent and providing advocacy during the meetings.
  - 6. Providing consultation to the attorney to develop the therapeutic goals of the treatment plan through litigation.
  - 7. Assisting with the preparation of trial, trial strategy and expert identification and outreach.
  - 8. Utilizing social science research in their advocacy.
  - 9. Other social work or family advocate duties as requested by the contract attorney for the case.
- B. The SW/FA will provide social work support services as an agent of the hiring contract attorney and act in conformity with the attorney's ethical rules including but not limited to maintaining confidentiality and adhering to the attorney/client privilege at all times and the requirements of Rule 5.3 of the South Carolina Rules of Professional Conduct pertaining to responsibilities regarding non-lawyer assistants. All work must be conducted in conformity with the instructions of the attorney with whom the SW/FA is working. It is the role of the attorney to determine the scope of the work, as well as the degree, nature, and duration of the SW/FA's involvement.

## **VI. PROFESSIONAL LIABILITY INSURANCE**

The SW/FA is required to obtain and maintain active social work or other professional liability insurance covering the scope of work performed at their own expense and to provide proof of such insurance each year.

## **VII. BILLING GUIDELINES**

Upon submission of an invoice to the contract attorney, the SW/FA warrants that the invoice is accurate and is in accordance with these guidelines and the SCCID Voucher Payment Policy.

- A. Invoice Format: All invoices must include the SW/FA name, address, phone, case name and number, Contract Attorney's name, date service provided, brief description of the

service provided, time expended providing the service, charge for the service provided; total time expended for that billing period, and the total charge for that billing period. A sample form is in the appendix.

- B. **Hourly Billing:** Time must be billed in fractions of an hour using the decimal system. Time billed must be the actual time spent on a work task computed to the nearest one-tenth (0.1) of an hour. Six minutes is equal to 0.1 hours. For example, 13-18 minutes is charged as 0.3 hours. This chart breaks up one hour:

| <b>Fraction of an Hour</b> | <b>Equates to Minutes</b> | <b>Fraction of an Hour</b> | <b>Equates to Minutes</b> |
|----------------------------|---------------------------|----------------------------|---------------------------|
| 0.1                        | 6                         | 0.6                        | 36                        |
| 0.2                        | 12                        | 0.7                        | 42                        |
| 0.3                        | 18                        | 0.8                        | 48                        |
| 0.4                        | 24                        | 0.9                        | 54                        |
| 0.5                        | 30                        | 1.0                        | 60                        |

- C. **Apportionment:** SW/FA must not bill two cases for services delivered simultaneously. For example, if a social worker is driving to court and answers a phone call, the time spent on the call must be billed to the case pertaining to the call and subtracted from the time spent driving to the court appearance in the other case. Or, if a family advocate is driving to court to appear for multiple cases scheduled on the same date, travel time must be apportioned evenly between the cases.
- D. **Concurrent Billing:** The contract attorney may be appointed to handle multiple cases on behalf of the same client at the same time. The SW/FA may bill for only one case or may apportion their billing between the multiple cases. However, SW/FA may not bill each case of the client for performing activities for the same client at the same time (e.g. meetings, hearings, travel).

## **VIII. GUIDELINES FOR FEES AND EXPENSES**

- A. **Prior Approval:** All fees and expenses of the SW/FA must be approved by court order prior to being incurred.
- B. **Mileage:** Mileage within the county of appointment is not reimbursable. Mileage is only reimbursable, at the current state mileage rates, upon approval for extraordinary travel and travel outside the county.
- C. **Overnight Travel:** Expenses for overnight travel are not reimbursable except under extraordinary circumstances authorized in advance by the Court.
- D. **Administrative Activities:** Pursuant to the SCCID Voucher Payment Policy, SCCID does not pay for charges associated with administrative or overhead expenses. The SW/FA may bill no more than a total of one (1) hour of time, of the 40 hours approved,

for administrative activities such as setting up files, copying, scanning or faxing documents, making deliveries, mailing letters/packages, etc.

- E. **Court Attendance:** Attendance at trials or other court hearings is authorized only for attending those portions of the trial when the SW/FA's presence is necessary. Attendance for an entire trial or hearing will not be compensated unless extraordinary circumstances exist and the attorney obtains prior approval from the trial court.

## **IX. CONTINUING EDUCATION**

The SW/FA must participate in at least six (6) hours of child-welfare-law-related training every year to remain on the approved list of child welfare social workers or family advocates. These hours may be as part of or in addition to the continuing education required for any professional licensure. Proof of attendance for each fiscal year (July 1 – June 30) must be filed with SCCID not later than June 30<sup>th</sup> of that year using the compliance form in the Appendix herein.

While SCCID may offer training, which SW/FA may attend for credit, continuing education costs, including specialized seminars and conferences will not be paid for or reimbursed by SCCID.

Company Name

# INVOICE

Street Address

INVOICE #

City, ST ZIP Code

DATE: ENTER DATE

Phone:

Fax:

**TO:**

**FOR:**

Contract Attorney Name

Case Name AND Client Name

Firm Name

Street Address

City, ST ZIP Code

| DATE  | DESCRIPTION          | HOURS | RATE | AMOUNT |
|-------|----------------------|-------|------|--------|
|       | Enter description 1  | Hours | Rate | Amount |
|       | Enter description 2  | Hours | Rate | Amount |
|       | Enter description 3  | Hours | Rate | Amount |
|       | Enter description 4  | Hours | Rate | Amount |
|       | Enter description 5  | Hours | Rate | Amount |
|       | Enter description 6  | Hours | Rate | Amount |
|       | Enter description 7  | Hours | Rate | Amount |
|       | Enter description 8  | Hours | Rate | Amount |
|       | Enter description 9  | Hours | Rate | Amount |
|       | Enter description 10 | Hours | Rate | Amount |
|       | Enter description 11 | Hours | Rate | Amount |
|       | Enter description 12 | Hours | Rate | Amount |
|       | Enter description 13 | Hours | Rate | Amount |
|       | Enter description 14 | Hours | Rate | Amount |
|       | Enter description 15 | Hours | Rate | Amount |
|       | Enter description 16 | Hours | Rate | Amount |
|       | Enter description 17 | Hours | Rate | Amount |
| TOTAL |                      |       |      | AMOUNT |

**ATTACHMENT B**

**SC COMMISSION ON INDIGENT DEFENSE  
SOCIAL WORKER/FAMILY ADVOCATE**

**CONTINUING EDUCATION COMPLIANCE REPORT**  
(must be filed with the Commission no later than June 30)

Report Period: July 1, 20 \_\_\_\_\_ to June 30, 20 \_\_\_\_\_

I attended the below listed training related to child welfare cases and law:

| Course Date | Sponsor Name | Course Name | Hours Attended |
|-------------|--------------|-------------|----------------|
|-------------|--------------|-------------|----------------|

**TOTAL:** \_\_\_\_\_

*TO BE COMPLETED BY SOCIAL WORKER OR FAMILY ADVOCATE*

By signing below, I certify that I attended the training described above and am entitled to claim the Total Continuing Education credit hours shown above.

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_